IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17478 of 2004

Between:

R. Galaiah S/o late Laxmaiah,

Aged about 70 years, Occ: Busines,

R/o H. No. 2-2-521, Amberpet, Hyderabad

..... PETITIONER

AND

1 The Commissioner of Excise & Prohibition A.P., Hyderabad
2 The Deputy Commissioner of Excise, Hyderabad
3 The Excise Superintendent, Hyderabad
4 Sri Manish Kumar, S/o Heera Singh, Aged about 37 years,
R/o H. No 2-2-1164/2, Tilaknagar, New Nallakunta, Hyderabad
5 Sri K. Anand Kumar, S/o K. Baburao,
Aged about 36 years,

R/o H. No. 2-2-647/273/5/B, Bagh Amberpet, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction particularly a Writ in the nature of Mandamus, declaring the inaction of the Respondents 1 to 3 in taking any action on the representations/objections filed by the petitioner dated 16-9-2004 and 20-9-2004 as illegal arbitrary and violation of principles of natural justice and consequently to direct the respondents 1 to 3 not to renew the licence in favour of the Respondents 4 and 5.

Counsel for the Petitioner: MRS.SUJATHA V.

Counsel for the Respondent Nos.1 to 3: GP FOR PROHIBITION & EXCISE

This Court at the admission stage made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.17478 OF 2004

ORAL ORDER :

The petitioner claims to be the owner of the premises bearing No.2-2-647/3/A/1 situated at Vegetable Market, Sivam Road, New Nallakunta, Hyderabad which was leased out to the fourth respondent for running a Wine Shop in the name of M/s. Shivam Wines. It is alleged that though the period of lease expired long back, the fourth respondent has not vacated the premises, but sub-let the shop to the fifth respondent. It appears that the petitioner filed a Civil Suit for eviction and arrears of rent and the same is pending.

The only grievance of the petitioner is that in spite of the fact that he made several representations, the latest being on 20-09-2004 before the licensing authority i.e., the third respondent bringing to his notice that there is no valid and subsisting lease in favour of the fourth respondent and requesting not to grant the renewal of licence in favour of the respondents 4 and 5, the third respondent has not considered the objections so far and in the meanwhile, the licence in favour of the petitioner is going to be renewed for a further period. Hence, this writ petition.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents 1 to 3.

It is to be noted that under Rule 29 (3) of A.P. Indian Liquor and Foreign Liquor Rules, 1970, no licence in forms IL-17, IL-19 or IL-24 shall be granted unless the applicant produces the lease deed on a stamp paper for the proposed licensed premises from the owner of the premises. That being the legal position, the Licensing Authority is required to consider the objection raised by the petitioner who claims to be the owner of the premises in question stating that there is no lease in favour of the respondents 4 and 5.

Accordingly, the Writ Petition is disposed of with a direction to the third respondent to consider the objections raised by the petitioner in the representation dated 20-09-2004 before granting the renewal of licence in favour of the respondents 4 and 5.

The Writ Petition is accordingly disposed of. No costs.

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29-09-2004

ghn

To

1 The Commissioner of Excise & Prohibition A.P., Hyderabad

2 The Deputy Commissioner of Excise, Hyderabad

3 The Excise Superintendent, Hyderabad

4 Two CCs to the Government Pleader for Prohibition and Excise, High Court of A.P., Hyderabad.

5 Two CD copies.

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OPERATIVE PORTION (BY WIRE):

Having regard to the facts circumstances of the case, I deem it appropriate to dispose of the writ petition with a direction to the third respondent to consider the objections raised by the petitioner in the representation dated 20-09-2004 before granting the renewal of licence in favour of the fourth respondent.

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(G.ROHINI, J)

Note:

1. Issue wire at partys costs.
2. Please send the bundle to the Court Masters Section after dispatch of the wire order.

B/o

ghn